

GAHC010029952024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./426/2024

PROTYOT PRAN SAIKIA
S/O- LATE JADAV CHANDARA SAIKIA, PRESENT ADDRESS- SOUTH CITY
APARTMENT, F/NO. 306, 3RD FLOOR, NEAR HOCKEY STADIUM, P.S.
HATIGAON, DIST. KAMRUP(M), ASSAM, PIN- 781038 AND PERMANENT
ADDRESS- VILL.- LAKWA, P.S. AND P.O. LAKWA, DIST. SIVASAGAR,
ASSAM, PIN- 785698.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.03.2024

Heard Mr. T. Deuri, learned counsel for the accused and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused persons namely, **Sri Protyot Pran Saikia**, who has been languishing in jail hazot, in connection with the **Dispur P.S. Case No. 2291/2023**, under Sections 420/ 406/ 468/ 419/ 120(B) of the IPC, for granting

bail.

3. The above noted case has been registered on the basis of an FIR lodged by one Parikhith Kalita, on 11.12.2023. The essence of allegation made in the FIR is that the applicant along with three others namely, Sri Debajit Nath; Imtiaz Ahmed; and Hamen Brahma, proposed to sale a plot of land, measuring 1 katha 15 lechas, covered by Dag No. 110(old)/988(new) of kheraj patta No. 89 of village No. 1 Hengarabari, under Beltola mouza, to the informant showing one registered power of attorney bearing Serial No. 5192, Deed No. 1009 dated 28.02.2022 and fixed the consideration at Rs. 2,22,00,000/- and received a sum of Rs. 75,00,000/- from the informant and his friend and Hrishikesh Das as advanced money and thereafter, on 23.05.2022 the accused persons have received another sum of Rs.10,00,000/- from them. Later on, he came to know that the power of attorney is fake and the person who has been shown as owner of the aforesaid plot of land is not the real owner.

4. Mr. Deuri, learned counsel for the accused submits that this is the second bail application preferred by the accused, on the ground that the accused has been languishing in jail hazot for more than 73 days and the earlier one, being BA No. 35/2024, was rejected by this Court, vide order dated 19.01.2024. Mr. Deuri further submits that though the Section 409 of the IPC has been added here in this case, yet, the said Section is not applicable in respect of the present applicant, as he is not a public servant. Mr. Deuri also submits that some of the co-accused persons have already been enlarged on bail by this Court and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Lahkar, learned Additional Public Prosecutor has

produced the case diary before this Court and submits that the IO has collected some incriminating materials against the accused and therefore, it is contended to dismiss the petition. However, to a pointed query of this Court, Mr. Lahkar submits that the IO has examined some witnesses and collected the specimen signature and handwriting of the accused and sent the same for FSL examination and now the case is pending for collection of the FSL report.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused was arrested on 19.12.2023, and since then he has been languishing in jail hazot for more than 73 days. Further, it appears that this is the second bail application preferred by the accused and the earlier one was rejected by this Court, vide order dated 19.01.2024, in BA No. 35/2024. It also appears that the IO has collected some incriminating material against the accused and also collected the specimen signature and handwriting of the accused and sent the same for FSL examination and now the case is pending for collection of the FSL report. The material part of the investigation appears to be almost over.

8. In view of above, this Court is of the view that further custodial detention of the accused may not be warranted, in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused persons be enlarged on bail.

- 10.** In terms of above, this bail application stands disposed of.
- 11.** The case diary be returned.

Comparing Assistant

JUDGE